The Planning Inspectorate

Appeal Decision

Site visit made on 4 February 2020

by L McKay MA MRTPI

Inspector appointed by the Secretary of State

Decision date: 30th March 2020.

Appeal Ref: APP/M3645/W/19/3239577
Partridge Stud, Effingham Lane, Copthorne RH10 3HP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Hobbs against the decision of Tandridge District Council.
- The application Ref TA/2019/1283, dated 17 July 2019, was refused by notice dated 18 September 2019.
- The application sought planning permission for erection of three x two-storey, 4-bed dwellings and 1 x 3-bed bungalow with associated parking and landscaping following demolition of existing buildings, without complying with a condition attached to planning permission Ref TA/2019/610, dated 24 May 2019.
- The condition in dispute is No 3 which states that: *This decision refers to drawings numbered 160418/001, 160418/003, 160418/004, 160418/005, 160418/006, 160418/007, 631/100, 631/101A, 631/102d, 631/103, 631/104, 631/105A, 631/106, 631/099, scanned in on 1st April 2019. The development shall be carried out in accordance with these approved drawings. There shall be no variations from these approved drawings.*
- The reason given for the condition is: *To ensure that the scheme proceeds as set out in the planning application and therefore remains in accordance with the Development Plan.*

Decision

1. The appeal is dismissed.

Procedural matters

2. The application seeks to make 'minor material amendments' (MMAs) to the development granted planning permission by the Council, by varying the 'approved plans' condition to instead specify the plans that reflect the amended proposal. The Planning Practice Guidance (PPG) sets out that there is no statutory definition of a 'minor material amendment' but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved. The Council suggests that the proposed changes would be beyond those which could be treated as MMAs. However, it did not refuse permission on that basis and determined the proposal under Section 73 of the Town and Country Planning Act 1990 rather than requiring a fresh planning application.

3. The proposal involves amended designs for the 4 dwellings previously approved, to add a single storey 'garage' to the side of each one. In addition, Plot 1 would be moved north of its approved position, the layout and number of

parking spaces would be altered, and changes are proposed to the arrangement of boundary fences and bin storage areas. As the proposal remains for 4 dwellings in broadly the same configuration as previously approved, in my judgement the proposed changes would not result in a development of substantially different nature to that which was approved. I shall therefore deal with the proposals as MMAs under section 73. Nevertheless, my finding on this issue does not indicate the acceptability or otherwise of the effects of the proposed changes, which I consider in my reasoning below.

4. Although described as 'garages' in the submissions, the appellant has confirmed that the additional floorspace proposed for each dwelling is not to be used for the parking of cars. Indeed, they are too small to serve that purpose having regard to the Council's parking standards[1]. The appellant has confirmed in their appeal submissions that these spaces would not provide habitable accommodation and would be unheated. Therefore, they would not result in increased carbon dioxide emissions. Consequently, the Council has withdrawn its second reason for refusal, and I have not therefore considered this matter further.

Main Issues

5. The main issues are:

   i) whether the proposed development would be inappropriate development in the Green Belt having regard to national and local policies;

   ii) the effect of the proposed development on the openness of the Green Belt;

   iii) whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposed development.

Reasons

Whether inappropriate development in the Green Belt and effect on openness

6. The National Planning Policy Framework (the Framework) states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. It further states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.

7. The construction of new buildings should be regarded as inappropriate in the Green Belt unless it falls within the closed lists of exceptions set out in Framework paragraphs 145 and 146. These include the limited infilling or the partial or complete redevelopment of previously developed land (PDL) which would not have a greater impact on the openness of the Green Belt than the existing development (paragraph 145 g)).

[1] Tandridge Parking Standards Supplementary Planning Document 2012 (SPD)

8. Policy DP10 of the Tandridge District Local Plan Part 2: Detailed Policies 2014 (LPP2) reflects the tests in Framework paragraphs 143 and 144 and LPP2 Policy DP13 generally reflects the exceptions in paragraph 145. Therefore, both are consistent with the Framework.

9. The evidence before me is that the buildings on site are not in agricultural use, with some used for equestrian purposes. Consequently, the site falls within the Framework definition of PDL and paragraph 145g) is therefore relevant.

10. There is no substantive evidence before me that the existing permission has been implemented, therefore the impact of the proposal on the openness of the Green Belt must be considered against the baseline of the existing development on site, not the approved scheme. Nonetheless, the approved scheme has some relevance as it is an extant permission granted as an exception under the Framework provisions for redevelopment of PDL.

11. Framework Paragraph 133 sets out that openness is one of the essential characteristics of Green Belts. It has been established that when applying the concept of openness to the particular facts of a case, a number of factors are capable of being relevant, and that openness might have a spatial as well as a visual aspect. It has been established that the purpose of buildings, and impacts that are not confined to permanent physical works, might also have some effect on openness. The Supreme Court has recently held that a consideration of openness in any given case is a matter for the decision maker and may or may not include a consideration of the visual aspect of openness. For the purposes of this appeal, I have considered both the visual and spatial aspects of openness.

12. There is a mature hedge along the boundary with Effingham Lane, however there are some lower and thinner sections where the existing buildings can be seen from the lane. The buildings are of various sizes and are loosely arranged around a central courtyard, from which there are views out between several of the buildings to the open fields to the west. Consequently, despite the number of buildings, the site has a sense of spaciousness.

13. The proposal would result in an overall reduction in footprint and volume of buildings on the site. However, as set out above, the concept of openness is not limited to a mathematical comparison of size.

14. The proposal would consolidate the built form on site into four buildings rather than the existing eight structures. It would however result in built development projecting north of the existing buildings into currently undeveloped land. Plots 1 and 2 would have only a small gap between them, and would spread across more of the site than the existing barn. Due to the gaps in the hedge and the height of the proposed buildings, the extent of built form and even the single storey elements of the dwellings would be apparent from the road. From within the site this spread of development would be clearly visible and would create a sense of enclosure across this part of the site.

15. Although the approved scheme included 2 dwellings in this area, they would not extend as far north and would have a smaller footprint, with a larger gap between. As such, there would be a clear separation and sense of space between the dwellings. This is a significant difference to the proposed scheme.

16. In the southern part of the site the existing buildings are relatively small and located close to the boundaries, leaving a gap in the centre which allows views through to the dwellings to the south. Plot 3 would extend across almost the entire width of this narrow part of the site. While it would only be single storey, the proposed dwelling would nonetheless largely close off the gap between the two neighbouring properties, and consequently the open aspect to the south. The approved dwelling in this location would be narrower and as such would retain some space beside it, so is materially different to the proposal before me.

17. Plot 4 would be wider than the existing barn and as such would reduce views of the fields to the west. However, the removal of the buildings to the south of it would create a significant gap which would largely offset that impact.

18. The yard between the buildings is already largely hard-surfaced and the proposed car parking arrangements would not significantly change that. However, the redevelopment of the site for residential purposes would result in up to 13 cars being parked in the courtyard, with most of the spaces likely to be occupied for at least part of every day or night. This would be a significant increase in parking and activity compared to the existing use. As such, the residential use of the land would spread the impact of the proposed development beyond the buildings themselves.

19. More parking is proposed than in the approved scheme and the spaces would be more closely grouped together. Therefore, the likely number and impact of parked cars would also be greater.

20. Consequently, the proposal would result in a modest, but nonetheless negative, impact both visually and spatially on the openness of the Green Belt. Accordingly, as it would have a greater impact on the openness of the Green Belt than the existing development it would be inappropriate development in the terms of the Framework.

Other considerations

21. The additional 'garage' spaces now proposed would be consistent in design and construction with the proposed dwellings, and would appear as subservient additions. As such, they would integrate effectively with the surrounding area. However, this is a requirement of local policy and would not result in a net benefit.

22. If residents wished to add garages or extensions on a piecemeal basis in the future, they might well be less uniform in design and appearance. However, this would not necessarily be harmful or of lower quality than the appeal proposal. I am also mindful that local policies, including LPP2 Policy DP14, seek to ensure that such developments do not detract from the rural character or appearance of the locality. Nor is there any certainty that, if this appeal were allowed, future residents would not seek to add more outbuildings. Consequently, there is limited potential that the proposal would prevent future harm from occurring and I therefore afford this minimal weight.

23. The amendments would provide one additional visitor parking space and as such would exceed the requirement for 'legible spaces' in the Council's parking standards. There is however no substantive evidence before me of parking

difficulties in the area. As such, this carries minimal weight in favour of the scheme.

24. The proposal would utilise previously developed land, however so would the approved scheme. It would not result in any increase in the number of dwellings, habitable space or likely occupancy of the dwellings. As such, there would be no net benefit in terms of housing supply or housing need.

Conclusion

25. The proposal therefore represents inappropriate development and would harm the openness of the Green Belt, to which I attach substantial weight having regard to Framework paragraph 144. The proposal would have a greater impact on openness than the extant permission and would result in minimal benefits compared to that scheme. Consequently, I find that the other considerations in this case do not clearly outweigh the harm that I have identified. The very special circumstances necessary to justify the development therefore do not exist.

26. Accordingly, the proposal conflicts with LPP2 Policies DP10 and DP13 and with the provisions of the Framework. Therefore, the appeal is dismissed.

L McKay

INSPECTOR